

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

OTTO GRAHAM,	:	
	:	
Plaintiff,	:	NO. 1:12-CV-00963
	:	
v.	:	OPINION AND ORDER
	:	
DYNAMIC RECOVERY SERVICES,	:	
INC.,	:	
	:	
Defendant.	:	

This matter is before the Court on Plaintiff's Motion to Vacate Default Judgment and Dismiss Case with Prejudice (doc. 13). Defendant never made an appearance in this matter. According to such motion, on its face, Plaintiff indicates that Defendant supports such motion as a term of a settlement reached in 2013.

The Court entered default judgment against Defendant on July 3, 2013 (docs. 11, 12). After Defendant received notification of such entry, a representative contacted Plaintiff's counsel (doc. 13). The parties indicate they have reached a settlement of this matter, whereby Plaintiff agreed to request the Court vacate the default judgment and dismiss this matter with prejudice (Id.).

Having reviewed this matter, the Court finds that pursuant to Fed. R. Civ. P. 60(b)(5), Plaintiff has essentially released Defendant from the judgment as a term of settlement. In the alternative, the Court finds the interests of justice served by the parties' resolution of this matter. Rule 60(b)(6). Under

these circumstances, where settlement payment has been made, the Court finds Plaintiff's motion well-taken. Pursuant to Fed. R. Civ. P. 41, Plaintiff may request dismissal of an action on terms the Court considers proper. The Court considers proper the dismissal as a term of the settlement here. Finally, as the parties have agreed to seek a dismissal with prejudice, the Court grants such request.

Accordingly, the Court GRANTS Plaintiff's Motion to Vacate Default Judgment (doc. 13), and DISMISSES this case with prejudice.

SO ORDERED.

Dated: January 7, 2014

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge